

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

**FACTORY MUTUAL INSURANCE
COMPANY, as subrogee of Agilent
Technologies, Inc.,**

Plaintiff,

v.

**XPEDIENT MANAGEMENT GROUP, LLC
and ST. PAUL FIRE AND MARINE
INSURANCE COMPANY,**

Defendants.

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No. 2:25-cv-02424

JURY DEMAND

DEFENDANT ST. PAUL FIRE AND MARINE INSURANCE COMPANY’S
MOTION TO DISMISS

COMES NOW the Defendant, St. Paul Fire and Marine Insurance Company (“St. Paul”), to submit its Motion to Dismiss pursuant to *Fed. R. Civ. P.* 12(b)(6).

As grounds for this motion and as described in more detail in its contemporaneously-filed memorandum of law, St. Paul would show that Factory Mutual Insurance Company’s Complaint should be dismissed for several reasons. As an initial matter, Factory Mutual filed its Complaint after its insured already filed a lawsuit regarding the same incident and same damages, and Factory Mutual’s Complaint should be dismissed under the “first-to-file” rule. Further, Factory Mutual’s Complaint does not plead sufficient facts establishing St. Paul’s possession of or control over the premises where the incident occurred. Moreover, Factory Mutual cannot prove its negligence *per se* claims. Accordingly, the Court should dismiss Factory Mutual’s Complaint against St. Paul in its entirety and with prejudice.

WHEREFORE, St. Paul respectfully requests that the Court enter an order granting its motion and dismissing Factory Mutual's Complaint against St. Paul in its entirety and with prejudice.

Respectfully submitted,

CARR ALLISON

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CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2025, I electronically filed **DEFENDANT ST. PAUL FIRE AND MARINE INSURANCE COMPANY'S MOTION TO DISMISS** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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